

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

DIGITAL MEDIA SOLUTIONS, LLC,
Plaintiff,

v.

Case No. 1:19-cv-145

SOUTH UNIVERSITY
OF OHIO, LLC, *et al.*

Defendants.

JUDGE DAN AARON POLSTER
MAGISTRATE JUDGE
THOMAS M. PARKER

NOTICE BY THE UNITED STATES

On July 22, 2020, the Court invited the United States to respond to the pending motion by Aetna Life Insurance Company seeking to set off certain pharmacy rebates against amounts owed to it by Dream Center Education Holdings, LLC (“DCEH”). *See* ECF No. 600. On September 18, 2020, counsel for the Department of Labor (“DOL”) sought a second extension of time for the United States to respond to the Court’s invitation to October 5, 2020, which the Court granted.

The United States hereby advises the Court that it respectfully declines to file a response to Aetna’s motion at this time. *See* 28 U.S.C. § 517. DOL, through the Employee Benefits Security Administration, maintains an ongoing investigation of potential violations of the Employee Retirement Income Security Act of 1974 (“ERISA”), as amended, 29 U.S.C. § 1001 *et seq.*, with respect to the Dream Center Education Holdings LLC Signature Benefits Plan (“the Plan”). As that investigation has not concluded, DOL is not prepared to opine on whether Aetna’s proposed retention of the pharmacy rebates violates ERISA. The United States, however, reserves its right under 28 U.S.C. § 517 to participate in this case in the future, if it becomes necessary to protect the government’s interests.

The United States appreciates the Court's invitation and the additional time that the Court afforded the United States to consider the matter.

Respectfully submitted this 30th day of September, 2020,

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Acting Assistant Attorney General

JACQUELINE COLEMAN SNEAD
Assistant Branch Director

/s/ Cormac A. Early
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CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2020, the foregoing Notice was filed electronically. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system.

/s/ Cormac A. Early
CORMAC A. EARLY
TRIAL ATTORNEY